

REMARKS

Claims 1-14 and 16-51 are currently pending in the application. In the Office Action dated September 6, 2007, claims 1-14 and 16-51 were rejected. By this Amendment, no claims have been amended. No new matter has been added.

Telephone conversation

Applicants thank the Examiner for the telephone conversation on December 6, 2007 where the reasoning for the ineffective Declaration was clarified. The Examiner stated that the mapping between the limitations included in the Declaration and each claim needs to be pointed out in this response. In addition, the Examiner questioned how a test script with bugs shows actual reduction to practice.

Claim Rejections - 35 USC § 103

Claims 1-14 and 16-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (US Patent No. 6,442,600 B1) in view of Smith et al. (6,282,564 B1).

The declaration filed on March 20, 2006 under 37 CFR 1.131 has been deemed ineffective to overcome the Anderson (US 6,442,600) reference. All pending claims have been rejected under 35 USC 103(a) as being unpatentable over Anderson in view of Smith et al. (US 6,282,564). Applicants respectfully traverse.

The Anderson reference was filed on January 15, 1999 and was issued on August 27, 2002. Therefore, this reference is being cited as 102(e) art and is thus eligible to be overcome based upon an affidavit or declaration from an inventor pursuant to 37 CFR 1.131. See MPEP Section 715.

The June 26, 2007 Declaration submitted in a previous Response allegedly failed to overcome the Anderson reference because it merely made general allegations for lacking clear mappings that show support for each individual claims, and it failed to prove actual reduction to practice. Applicants respectfully disagree.

Regarding the mapping to show support of each claim, the Declaration clearly showed the mappings for each limitation of the claim and support as stated in the Declaration. The relationship of each paragraph and each limitation are explained below as requested by the Examiner in the telephone conversation of December 6, 2007.

Claim 1: Paragraphs 4-6 of the Declaration.
Claim 2: Paragraph 7 of the Declaration.
Claim 3: Paragraph 8 of the Declaration.
Claim 4: Paragraph 9 of the Declaration.
Claim 6: Paragraphs 10-12 of the Declaration.
Claim 7: Paragraph 13 of the Declaration.
Claim 8: Paragraphs 14-15 of the Declaration.
Claim 9: Paragraph 16 of the Declaration.
Claim 10: Paragraph 17 of the Declaration.
Claim 11: Paragraphs 18-20 of the Declaration.
Claim 12: Paragraphs 21-23 of the Declaration.
Claim 13: Paragraphs 24-26 of the Declaration.
Claim 14: Paragraph 27 of the Declaration.
Claim 16: Paragraph 28 of the Declaration.
Claim 17: Paragraph 29 of the Declaration.
Claim 18: Paragraph 30 of the Declaration.
Claim 19: Paragraph 31 of the Declaration.
Claim 20: Paragraph 32 of the Declaration.
Claim 21: Paragraphs 33-35 of the Declaration.
Claim 23: Paragraphs 36-37 of the Declaration.
Claim 24: Paragraph 38 of the Declaration.
Claim 25: Paragraph 39 of the Declaration.
Claim 26: Paragraph 40 of the Declaration.
Claim 27: Paragraph 41 of the Declaration.
Claim 28: Paragraph 42 of the Declaration.
Claim 29: Paragraph 43 of the Declaration.
Claim 30: Paragraph 44 of the Declaration.
Claim 31: Paragraphs 36-37 of the Declaration.
Claim 32: Paragraph 38 of the Declaration.
Claim 33: Paragraph 39 of the Declaration.
Claim 34: Paragraph 40 of the Declaration.

Claim 35: Paragraph 41 of the Declaration.
Claim 36: Paragraph 42 of the Declaration.
Claim 37: Paragraph 43 of the Declaration.
Claim 38: Paragraphs 36-37 of the Declaration.
Claim 39: Paragraph 38 of the Declaration.
Claim 40: Paragraph 39 of the Declaration.
Claim 41: Paragraph 40 of the Declaration.
Claim 42: Paragraph 41 of the Declaration.
Claim 43: Paragraph 42 of the Declaration.
Claim 44: Paragraph 43 of the Declaration.
Claim 45: Paragraph 44 of the Declaration.
Claim 46: Paragraphs 4-6 of the Declaration.
Claim 48: Paragraphs 10-12 of the Declaration.
Claim 49: Paragraph 13 of the Declaration.
Claim 50: Paragraphs 14-15 of the Declaration.
Claim 51: Paragraph 16 of the Declaration.

Regarding actual reduction to practice, the declaration clearly explains that Exhibits B-D are test scripts and Exhibit E are copies of the output generated by those test scripts and Exhibit F shows the successful tests of the above scripts.

“For an actual reduction to practice, the invention must have been sufficiently tested to demonstrate that it will work for its intended purpose, but it need not be in a commercially satisfactory stage of development. >See, e.g., *Scott v. Finney*, 34 F.3d 1058, 1062, 32 USPQ2d 1115, 1118-19 (Fed. Cir. 1994)(citing numerous cases wherein the character of the testing necessary to support an actual reduction to practice varied with the complexity of the invention and the problem it solved).< “(see, MPEP 2138.05).

The Office Action questioned the showing of successful test because the results in Exhibit F allegedly include bug(s). Whether or not Exhibit F includes bugs is irrelevant. The Declaration states that Exhibit F shows the successful tests. The MPEP states that the invention does not have to be in a commercially satisfactory stage of development to be considered having been reduced to practice. As long as the invention is tested to demonstrate that it works for its intended purpose, it is considered to be actually reduced to practice.

In this case, the claimed invention does not need to be bugs free to be considered having actually been reduced to practice. The Declaration states that expected results were produced. As stated in the Declaration, the documents in Exhibit F are copies of files that display the result of running the tests and demonstrate that the test ran correctly with the expected results. Exhibit F shows that the claimed invention is successful and worked for its intended purpose because regression tests were performed to verify that the operations performed by the test scripts generate the specified output as stated in the Declaration. Thus, actual reduction to practice is clearly shown in the Declaration because an embodiment of the invention actually exists and works for its intended purpose.

For at least the above reasons, it is respectfully submitted that Anderson cannot be used as prior art to anticipate or render obvious the claimed subject matter. Therefore, the Smith reference alone fails to disclose all the features of the claims and does not render the pending claims obvious.

Moreover, it is respectfully noted that Applicants do not acquiesce in the basis of the rejection, e.g., there is insufficient reasons to combine the Anderson and Smith references to arrive at the claimed subject matter, and that even if a combination is made, the resulting combination does not include all elements of the claimed invention.

CONCLUSION

Based on the foregoing, all claims are believed allowable, and an allowance of the claims is respectfully requested. If the Examiner has any questions or comments, the Examiner is respectfully requested to contact the undersigned at the number listed below.

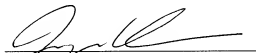
If the Commissioner determines that additional fees are due or that an excess fee has been paid, the Patent Office is authorized to debit or credit (respectively) Deposit Account No.

50-4047, billing reference no. **7011472001**.

Respectfully submitted,

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By: _____



Jasper K. Woh
Registration No.: 54,921
for
Peter C. Mei
Registration No.: 39,768

Bingham McCutchen LLP
Three Embarcadero Center
San Francisco, CA 94111-4067
Telephone: (650) 849-4400
Telefax: (650) 849-4800